

GRANTING THE CONSENT OF CONGRESS TO A SUPPLEMENTAL COMPACT OR AGREEMENT BETWEEN THE STATE OF NEW JERSEY AND THE COMMONWEALTH OF PENNSYLVANIA, AUTHORIZING THE DELAWARE RIVER JOINT COMMISSION TO CONSTRUCT, FINANCE, OPERATE, MAINTAIN, AND OWN A VEHICULAR TUNNEL OR TUNNELS UNDER, OR AN ADDITIONAL BRIDGE ACROSS, THE DELAWARE RIVER AND DEFINING CERTAIN FUNCTIONS, POWERS, AND DUTIES OF SAID COMMISSION

JUNE 24, 1952.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BUCKLEY, from the Committee on Public Works, submitted the following.

REPORT

[To accompany H. R. 8316]

The Committee on Public Works, to whom was referred the bill (H. R. 8316) granting the consent of Congress to a supplemental compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania, authorizing the Delaware River Joint Commission to construct, finance, operate, maintain, and own a vehicular tunnel or tunnels under, or an additional bridge across, the Delaware River and defining certain functions, powers, and duties of said Commission, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 4, line 3, after the word "Commission" insert a comma.

Page 14, line 4, after the word "opening" strike the word "of" and substitute the word "to".

The committee held hearings on H. R. 5503, H. R. 5509, and H. R. 5628, during which time testimony was offered by Federal, State, and local officials, Members of the Congress, representatives of private industry, labor unions, civic organizations, and others interested in this legislation.

At the conclusion of the hearings, the committee adopted certain amendments to these bills, and H. R. 8316 was introduced as a substitute measure.

The bill would grant the consent of Congress to a supplemental compact which would authorize the Delaware River Joint Commission, established under a 1931 compact and 1932 consent, by whatever name said Commission may be designated, to finance and construct an additional crossing over the Delaware River, either bridge or tunnel, between Philadelphia and Camden, to be located 2 or 3 miles south of its existing bridge, but only upon the filing with the Commission of the written consents by the Governors of the two States.

The supplemental compact would regulate the undertaking of the new construction and would clarify and modernize certain incidental powers vested in the Commission. The bill would permit the Commission to combine into one project, for financing and operating, the new crossing and any other of the facilities it provides for the public.

It is contemplated that these bridges or tunnels, when constructed, will become one of the facilities described in the companion legislation (H. R. 8315) and thus eventually be under the jurisdiction of the Delaware River Port Authority.

It should be noted that, with the exception of the foregoing comments, the report of the committee with respect to H. R. 8315 is likewise applicable to this bill and is incorporated herein by reference.

Reports received from Federal agencies are set forth below.

DEPARTMENT OF COMMERCE,
Washington, May 28, 1952.

Hon. CHARLES A. BUCKLEY,
Chairman, Committee on Public Works,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in further reply to your request of September 29, 1951, for the views of this Department concerning H. R. 5503 and H. R. 5509, identical bills granting the consent of Congress to a supplemental compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania, authorizing the Delaware River Joint Commission to construct, finance, operate, maintain, and own a vehicular tunnel or tunnels under, or an additional bridge across, the Delaware River and defining certain functions, powers, and duties of said commission, and for other purposes.

On October 19, 1951, at the request of your committee, this Department submitted to you a report with respect to H. R. 5503. Due to the urgency of your request we were unable to obtain the advice of the Bureau of the Budget with respect to that report.

Since that time, the Department has had occasion to make further study of the problems involved in H. R. 5503 and H. R. 5509. The current position of the Department, taken after further study of the bills and the problems involved, is set forth in the attached report. We therefore request that this report be substituted for our earlier report of October 19, 1951.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report to your committee. If we can be of further assistance in this matter, please call upon us.

Sincerely yours,

CHARLES SAWYER,
Secretary of Commerce.

REPORT OF THE DEPARTMENT OF COMMERCE ON H. R. 5503 AND H. R. 5509

The supplemental agreement or compact recited in the bill and proposed for the consent of Congress would add a new article to the compact between New Jersey and Pennsylvania, consented to by Congress on June 14, 1932 (47 Stat. 308), concerning the Delaware River Joint Commission. This new article would empower the Delaware River Joint Commission, by whatever name said commission may be designated, in addition to other powers and duties conferred upon

it, to construct, operate, maintain, and finance an additional bridge at the location indicated for vehicular traffic across the Delaware River between Philadelphia and Camden, or, in lieu of such bridge, a tunnel or tunnels for vehicular traffic under the Delaware River at the same location between said cities, with necessary approaches and highway connections to such proposed new bridge or tunnel.

Section 3 of the bill would authorize the commission to fix, charge, and collect tolls or other charges for the use of any bridge or tunnel heretofore or hereafter controlled, constructed, or acquired by the commission, and to combine any such bridges or tunnels not only with one another but with any railroad, rapid-transit system, or other properties or facilities heretofore or hereafter established, controlled, constructed, or acquired by the commission for transportation, terminal, or port-improvement purposes; and to combine the tolls or revenues therefrom and to use or pledge any such tolls or other charges for the purpose of financing, acquiring, constructing, operating, or maintaining any facility or facilities, all to the extent provided by the provisions of the aforesaid compact as amended and supplemented. In the exercise of such authority, section 3 would expressly exempt the commission from compliance not only with the General Bridge Act of 1946, as amended, but also with the provisions of any other act of Congress heretofore adopted, including any act or resolution of the Congress that authorized or consented to the construction or acquisition of any highway bridge or tunnel that might be constructed or acquired by the commission. In other words, the bill would permit highway bridges and highway tunnels under the jurisdiction of the commission to be combined for financing purposes with any other properties and facilities of the commission regardless of their non-highway character, and would authorize collection of tolls or other charges on all facilities so combined without any limitation as to time. In its present form, therefore, the bill would be in direct conflict with legislation heretofore enacted by Congress with respect to having a limitation on the combining of highway bridges and highway tunnels for financing purposes and as to the maximum period of 30 years during which tolls may be charged for such purposes, and would grant complete immunity to the commission from existing Federal statutes imposing such limitations and also with respect to existing requirements of Federal law that tolls shall be reasonable and just and that the Secretary of the Army may prescribe the reasonable rates of such tolls.

In any consideration of the pending bills, H. R. 5503 and H. R. 5509, there should be taken into account the provisions of the bills, H. R. 5502 and H. R. 5508, now before Congress proposing to grant its consent to another supplemental compact or agreement between New Jersey and Pennsylvania which would change the name of the Delaware River Joint Commission to the Delaware River Port Authority, and broaden its powers and authorize it, among other things, to construct, acquire, maintain, and operate bridges and tunnels and various and sundry types of nonhighway facilities for the improvement and development of the "port district" which would embrace Delaware and Philadelphia Counties in Pennsylvania and all the territory within eight counties of New Jersey comprising practically the whole southern half of said State. Said bills, H. R. 5502 and H. R. 5508, would empower the authority to combine for financing purposes all facilities under its control and jurisdiction and to collect tolls or other charges for the use thereof without any limitation as to time, and would exempt the authority from any Federal statutes imposing limitations with respect to such matters. The Department, in its report on H. R. 5502 and H. R. 5508, outlined in considerable detail the factors involved which would make it highly inadvisable to authorize highway bridges and highway tunnels to be combined with nonhighway facilities and permit tolls to be collected thereon without any limitation as to time and thus subject the highway bridges and tunnels to the perpetuation of tolls to support various and sundry facilities having no direct relation to such highway bridges and tunnels. The Department, therefore, recommended that H. R. 5502 and H. R. 5508 be amended so as to prohibit any highway bridge or highway tunnel from being combined for financing purposes with any facility other than a highway bridge or highway tunnel, and to require that when the tolls on any such highway bridge or tunnel or of any two or more such highway bridges or tunnels that may be combined shall have provided a fund sufficient to amortize the cost of their construction, within not to exceed 30 years as provided by the General Bridge Act of 1946, the collection of tolls thereon shall cease.

Since all four bills relate to the same commission (Delaware River Joint Commission which would become the Delaware River Port Authority under H. R. 5502 and H. R. 5508), and are subject to the same type of objections as indicated

above, it is recommended that H. R. 5503 and H. R. 5509 be amended in the same manner as suggested by the Department with respect to H. R. 5502 and H. R. 5508. This can be accomplished by amending section 3 by striking out the language beginning with the word "Notwithstanding", line 1, page 13, down to and including the word "commission", at the end of line 7, page 13, and by inserting in line 4, page 14, after the word "supplemented" a comma and the words "as consented to by the Congress," and by changing the period after the word "commission" in line 6, page 14, to a colon and inserting the following proviso:

"Provided, That no highway bridge or highway tunnel shall be combined for financing purposes with any facility other than a highway bridge or highway tunnel, and the tolls or other charges collected for the use of any such bridge or tunnel shall not be pledged or used for the purpose of financing any facility other than a highway bridge or highway tunnel, and when the revenues derived from tolls and other charges collected on any such highway bridge or tunnel, or on any two or more such highway bridges or tunnels that may be combined into a single project for financing purposes, shall be sufficient, in addition to meeting necessary annual maintenance, repair, and operating costs, to amortize that portion of the cost thereof not yet amortized, as soon as possible under reasonable charges, but within not exceeding thirty years from the date any such highway bridge or tunnel may hereafter be constructed or acquired when not combined in a project with other highway bridges or tunnels, or within not exceeding thirty years from the date on which the last highway bridge or tunnel combined in such project was completed or acquired, the collection of tolls on any such bridge or tunnel, individually or in combination, shall cease."

The Department would interpose no objection to the enactment of H. R. 5503 or H. R. 5509 if amended in line with the above recommendations.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 19, 1952.

Hon. CHARLES A. BUCKLEY,
*Chairman, Committee on Public Works,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: The attention of this Office has been called to H. R. 5502, H. R. 5508, and H. R. 5509, bills granting consent to the approval of two supplementary compacts between the State of New Jersey and the Commonwealth of Pennsylvania which have been referred to your committee. This Office was requested by the Senate Committee on Public Works to advise that committee of the views of this Office on related bills pending before that committee. A report covering these two related bills, S. 2187 and S. 2188, was addressed to the chairman of the Senate Committee on Public Works on May 2, 1952. In order that your committee may have available to it the information and views which were presented in the Bureau's letter of May 2, 1952, to the Senate committee, copies of our letter are enclosed.

Sincerely yours,

F. J. LAWTON, *Director.*

Enclosure: Copies of letters of May 2, 1952, to Senate Committee on Public Works.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 2, 1952.

Hon. DENNIS CHAVEZ,
*Chairman, Senate Committee on Public Works,
Senate Office Building, Washington, D. C.*

MY DEAR SENATOR CHAVEZ: This is in answer to your letter of September 28, 1951, inviting the Bureau of the Budget to comment on S. 2187, granting the consent of Congress to a supplemental compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania concerning the Delaware River Port Authority, formerly the Delaware River Joint Commission, and for other purposes, and S. 2188, granting the consent of Congress to a supplemental compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania, authorizing the Delaware River Joint Commission to construct,

finance, operate, maintain, and own a vehicular tunnel or tunnels under, or an additional bridge across, the Delaware River and defining certain functions, powers, and duties of said commission, and for other purposes.

The bill, S. 2187, grants the congressional consent, required by constitutional provisions, to a supplemental compact between the State of New Jersey and the Commonwealth of Pennsylvania. Sections 2 and 3, independently of the approval given by section 1 to the amended agreement, confer additional powers and authorities upon the Delaware River Port Authority. The supplemental compact presented for approval enlarges the jurisdiction and scope of the Delaware River Joint Commission which was heretofore created as a public corporate instrumentality of New Jersey and Pennsylvania, an enlargement designed principally to enable this governmental instrumentality to improve and develop the district for port purposes and integrate the transportation facilities in the territory within its jurisdiction.

This measure proposed major departures, in several respects, from the General Bridge Act of 1946, the applicable general Federal law. These departures are (1) permitting the pooling for financing purposes of two or more bridges, (2) authorizing the use of bridge revenues for purposes other than for amortization of the bridges, (3) permitting the rates of tolls on bridges to be fixed by the Delaware River Port Authority instead of by the Secretary of the Army, and (4) permitting the collection of tolls or other charges after a bridge has been amortized.

This Office believes there is no objection to the pooling for financing purposes of two or more bridges or of bridges and tunnels which are so closely interrelated as would be the case in this instance. We realize that such pooling for financing purposes may result in continuation of tolls on one or more of the bridges thus pooled beyond the time which would otherwise be permitted. It is our view, however, that any such departures from the policy of the Bridge Act of 1946 respecting the termination of tolls within 30 years should be sparingly permitted and only upon a showing of the necessity therefor and of the impracticability of conforming to the general policy. If exceptions are to be granted, it is our view the extension should be for such further term of years only as is necessary under the circumstances in the particular instance. We further believe that the authority of the Secretary of the Army under the General Bridge Act to fix tolls that are fair and reasonable should not be supplanted.

The principal issue which this bill presents arises from the proposal to permit the pooling of river-crossing and non-river-crossing facilities and the use of toll revenues from this combination for the purposes of financing the construction or operation of the various other facilities embraced in the terms "railroads, rapid-transit systems, or other properties or facilities for transportation, terminal, or port-improvement purposes * * * heretofore or hereafter established, controlled, constructed, or acquired by the Commission * * *".

The committee will recognize the marked departure of these proposed authorities from the prevailing policy. They would, in effect, permit the taxing of interstate traffic to support other facilities in the port-authority area, some of which would probably be primarily local in character and of benefit to those within a delimited area. S. 2187 therefore presents three questions of far-reaching importance, not only with respect to the port authority proposed in this bill but also with respect to future port-authority organizations for which the proposed legislation may serve as a precedent. These questions are: (1) Should interstate traffic be so burdened and asked to contribute to the support of such local facilities and local development; (2) should this support, where necessary, be made available to this public instrumentality by the State of New Jersey and the Commonwealth of Pennsylvania; (3) is it equitable and feasible to require bridge users to contribute to the support of the numerous other kinds of port development facilities—so largely of direct service to commercial users—which will undoubtedly be required for the continued development of such a major port, or should those other developments be required to charge fees for their use which will make them self-supporting without subsidy from bridge revenues? While these questions are ultimately for resolution by the Congress, the Department of Commerce, in the report which it is presenting upon the bill, registers objection to the diversion of toll income from river crossings to support non-river-crossing port-development facilities. In the light of this objection, we are sure that the Congress will wish to consider very carefully the appropriate answers to these questions.

The Federal Government most certainly is not disposed to impede the development and improvement of the transportation and port facilities of the Pennsylvania-New Jersey area in question. At the same time, it is properly concerned that such an objective be accomplished only with due consideration of the interest

and welfare of the general public, particularly those of the interstate traveler who is obliged to use river crossings and to pay for such use. The Bureau, for that reason, has felt that it should emphasize to the committee the issue of whether interstate bridge traffic should be compelled to contribute to the support of non-bridge facilities primarily local in character or whether their support should come from the States involved or the users thereof.

The Treasury Department, in the attached copy of its communication to this office, has suggested the desirability of amending section 1 of S. 2187 in order to preserve the application of the Federal internal-revenue laws to the bonds or other securities or obligations of the commission, their transfer, and the income therefrom. We agree that the adoption of this proposed amendment would clarify the tax provisions of the bill.

We wish to mention two other features of the bill of a more detailed or technical nature. First, it appears that the proposed authorization in section 2 for the commission to construct bridges duplicates authority already available pursuant to the General Bridge Act of 1946. This duplicating authority therefore appears to be unnecessary and might raise some doubt as to the applicability of the General Bridge Act of 1946 to any bridge constructed by the commission. Second, with respect to the provisions of section 2 which authorize the construction and operation of railroad facilities and of a rapid-transit system, it is pointed out that the Interstate Commerce Commission is presently responsible for authorizing construction of railroad lines to be used for common-carrier service. In view of this existing statutory requirement for Interstate Commerce Commission approval, it would seem desirable to avoid any separate and special statutory authorization for the establishment of such rail-transportation facilities.

In connection with its consideration of this bill the committee may wish to note that the enactment of S. 2187 would have the result that two organizations would be authorized to acquire the Tacony-Palmyra Bridge. The Delaware River Joint Toll Bridge Commission is already authorized to acquire this bridge by Public Law 287 (82d Cong.). This is being mentioned merely for the information of the committee. This office is not aware of any objection to such duplicating authority.

S. 2188 grants the congressional consent, required by constitutional provisions, to a supplemental compact between the State of New Jersey and the Commonwealth of Pennsylvania. The basic problems presented by this bill in substance are the same as those involved in S. 2187. The above comments with respect to S. 2187 are, therefore, generally applicable to S. 2188.

Sincerely yours,

ELMER B. STAATS, *Assistant Director.*

Enclosure: Copy of letter from Treasury Department.

TREASURY DEPARTMENT,
Washington, February 27, 1952.

HON. FREDERICK J. LAWTON,
Director, Bureau of the Budget, Washington, D. C.

MY DEAR MR. LAWTON: Reference is made to the request under date of February 13, 1952, for the views of this Department with respect to S. 2187 and S. 2188, bills granting the consent of Congress to supplemental compacts or agreements between the State of New Jersey and the Commonwealth of Pennsylvania. It is noted that with respect to S. 2187, in article XI of the amended compact, the following provision appears: * * * "and the bonds or other securities or other obligations issued by the commission, their transfer and the income therefrom (including any profits made on the sale thereof) shall at all times be free of taxation within the Commonwealth of Pennsylvania and the State of New Jersey." While such language in a compact between two sovereign States might, without more, not be construed to affect in any manner the application of the Federal income-tax laws to such bonds and their income within the two States, the consent of Congress to such a provision might give rise to some confusion.

In order to avert any possible difficulties along this line it is suggested that there be inserted before the colon on line 5, page 2, the following language: "And provided, That the consent of Congress hereby given shall not be construed to affect in any manner whatsoever the application of the internal-revenue laws of the United States to the bonds or other securities or obligations issued by the commissioner, their transfer and the income therefrom (including any profits made on the sale thereof)." While language similar to that in S. 2187 is not

found in S. 2188, in the event of any amendment by the Congress to S. 2188 along such lines, it would seem desirable to provide similar language to that suggested above for insertion in S. 2187.

Very truly yours,

E. H. FOLEY,
Acting Secretary of the Treasury.

DEPARTMENT OF THE ARMY,
Washington 25, D. C., May 8, 1952.

HON. CHARLES A. BUCKLEY,
*Chairman, Committee on Public Works,
House of Representatives.*

DEAR MR. BUCKLEY: Reference is made to your request for the views of this Department with respect to H. R. 5503, H. R. 5509, and H. R. 5628, Eighty-second Congress, first session, bills granting the consent of Congress to a supplemental compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania, authorizing the Delaware River Joint Commission to construct, finance, operate, maintain, and own a vehicular tunnel or tunnels under, or an additional bridge across, the Delaware River and defining certain functions, powers, and duties of said commission, and for other purposes. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense.

The Department of the Army, on behalf of the Department of Defense, has considered these bills, and offers no objection to their favorable consideration if amended as hereinafter recommended.

By an act approved February 15, 1921 (41 Stat. 1101), the consent of Congress was granted to the Delaware River Bridge Joint Commission to construct a bridge across the Delaware River between Philadelphia and Camden, in accordance with the provisions of the General Bridge Act of March 23, 1906 (33 U. S. C. 491-498). The General Bridge Act of 1906 provides, among other things, for the prior approval of the location and plans of a proposed bridge and for the regulation of bridge tolls by the Secretary of the Army, but does not limit the time during which tolls may be charged. A compact entered into by Pennsylvania and New Jersey on July 1, 1931, to which the consent of Congress was given by a joint resolution approved June 14, 1932 (47 Stat. 308), created the Delaware River Joint Commission, for the following principal purposes: (1) The operation and maintenance of the Philadelphia-Camden Bridge; (2) the establishment, operation, and maintenance of railroad or other facilities for transporting passengers across said bridge, including extensions thereof.

Section 1 of said bills would give the consent of Congress to a supplemental agreement, signed by the Governor of New Jersey on August 23, 1951, and by the Governor of Pennsylvania on August 30, 1951, which amends the original compact by adding a new article XII-A authorizing the Delaware River Joint Commission to construct an additional bridge or tunnel approximately 3 miles downstream from the existing bridge.

Section 2 of the bills would authorize the commission to construct, finance, operate, maintain, and own the bridge or the tunnel or tunnels. Although section 1 provides that nothing contained in the supplemental agreement shall be construed to affect the jurisdiction of any department, officer, or official of the United States over or in regard to any navigable waters, bridge, or other facility, it is not clear that the commission would be required under section 2 to submit a map of the location and plans of any proposed bridge or tunnel for the approval of the Secretary of the Army prior to its construction. It is therefore recommended that the period at the end of section 2 be changed to a comma and the following clause added: "in accordance with the applicable provisions of the General Bridge Act of 1946 (33 U. S. C. 525-533) and section 10 of the River and Harbor Act of March 3, 1899 (33 U. S. C. 403)."

Section 3 of the bills would authorize the commission, notwithstanding any of the provisions of the General Bridge Act of 1946, to combine any two or more bridges, tunnels, and other facilities for financing purposes, and to collect tolls without any limitation as to time. The attention of the committee is invited to the fact that legislation has been vetoed which does not give assurance that a bridge shall be maintained and operated free of tolls after the recovery through

tolls of its costs of construction and the actual cost of maintenance, repair, and operation during the toll period.

The bill does not involve the expenditure of funds by the United States.

This report has been coordinated among the departments and boards in the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

The Bureau of the Budget has advised that there is no objection to the submission of an identical report on S. 2188, a companion bill.

Sincerely yours,

FRANK PACE, Jr.,
Secretary of the Army.

